

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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**NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING  
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD  
AND NOTICE OF PROPOSED CHANGES TO TITLE 8  
OF THE CALIFORNIA CODE OF REGULATIONS**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

**PUBLIC MEETING:** On **June 19, 2008**, at 10:00 a.m.  
in the Harris State Building Auditorium,  
1515 Clay Street, Oakland, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

**PUBLIC HEARING:** On **June 19, 2008**, following the Public Meeting,  
in the Harris State Building Auditorium,  
1515 Clay Street, Oakland, California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

**BUSINESS MEETING:** On **June 19, 2008**, following the Public Hearing,  
in the Harris State Building Auditorium,  
1515 Clay Street, Oakland, California.

At the Business Meeting, the Board will conduct its monthly business.

**DISABILITY ACCOMMODATION NOTICE:** Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD**

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JOHN D. MACLEOD, Chairman

NOTICE OF PROPOSED CHANGES TO TITLE 8  
OF THE CALIFORNIA CODE OF REGULATIONS  
BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **June 19, 2008**.

1. TITLE 8:     **GENERAL INDUSTRY SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 7, Article 69  
Section 4530  
**Bakery Ovens—Inspections**

Descriptions of the proposed changes are as follows:

1. **TITLE 8:**        **GENERAL INDUSTRY SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 7, Article 69  
Section 4530  
**Bakery Ovens—Inspections**

### **INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW**

The Occupational Safety and Health Standards Board (Board) initiates this rulemaking as the result of a Request for New or Change in Existing Safety Order (Form 9), submitted by the Division of Occupational Safety and Health (Division), dated August 21, 2007, to revise Section 4530(a) in the General Industry Safety Orders (GISO). The Division stated that Title 8, Section 4530, bakery oven standards, does not contain an oven inspection/maintenance requirement that is contained in 29 CFR 1910.263(l)(9)(ii). This federal requirement stipulates that bakery oven safety devices are to be inspected by the employer at intervals not less than two times per month and by the oven manufacturer at least once a year. California Labor Code Section 142.3(a)(2) requires the Board to adopt standards that are at least as effective as those promulgated by federal OSHA.

Existing Section 4530 contains general bakery oven requirements and requirements for fired and recirculating ovens. Existing Section 4530(a) contains general requirements for bakery ovens that include requirements for safe oven placement, oven safety devices, and gas oven lock-out requirements. Currently, Section 4530 does not contain requirements for periodic inspections of the oven's safety devices as mandated by the aforementioned Federal OSHA requirements. Board staff agrees with the Division that Title 8, Section 4530 needs to be amended to ensure that Title 8 standards are at least as effective as the counterpart federal regulation for this issue.

Therefore, this proposal consists of language derived from 29 CFR 1910.263(l)(9)(ii) to address this issue. Board staff's proposal deviates somewhat from the Division's recommended language and the federal standard by requiring that a qualified person, a term defined in GISO, Section 3207, conduct the monthly inspections rather than an "especially appointed, properly instructed employee," which is language unfamiliar to Title 8 and California employers. The term "qualified person," as defined in Section 3207, is well understood. Board staff believes this deviation is justified since the term "qualified person" is equivalent to "especially appointed, properly instructed employee". Section 3207 defines "Qualified Person, Attendant or Operator" as a person designated by the employer who by reason of his training and experience has demonstrated his ability to safely perform his duties and, where required, is properly licensed in accordance with federal, state, or local laws and regulations.

#### **Section 4530. Bakery Ovens.**

Existing Section 4530 contains standards addressing general bakery oven requirements that include safety devices for fired and recirculating bakery ovens.

An amendment is proposed to add language in subsection (a), as new subsection (a)(2), to require that all oven safety devices be inspected at least two times per month by a qualified person and at least once a year by a representative from the bakery oven manufacturer.

This proposal adds requirements substantially similar to the oven inspection requirements of 29 CFR 1910.263(l)(9)(ii). The current California standard has no inspection requirements. Therefore, this proposal will render the inspection requirements for bakery ovens in Section 4530 “at least as effective as” 29 CFR, Section 1910.263(l)(9)(ii). The proposal will provide employees with the added safety that is likely to result from a regimen of inspections.

In addition, existing subsections (a)(2) through (a)(4) are proposed to be renumbered to include new subsection (a)(2). Furthermore, an editorial revision is proposed to renumbered subsection (a)(5) to replace the term “men” with “a person” to eliminate gender specific language. These revisions are editorial in nature and will have no effect on the regulated public.

## **COST ESTIMATES OF PROPOSED ACTION**

### **Costs or Savings to State Agencies**

With regard to the bi-monthly inspection requirement, there would be no significant cost impact to State agencies that operate bakery ovens, as these inspections would generally be conducted by the employees currently maintaining the ovens. There will be an additional cost to State agencies that operate bakery ovens related to the annual inspections conducted by the manufacturer’s representative. In conversations with manufacturers of bakery ovens, the cost of the annual inspection generally ranges from \$80 to \$160 depending on the type of the oven and travel distance to the oven site. Employers who operate bakery ovens will typically enter into a service contract with the manufacturer to conduct periodic inspections as required by the proposal. Bakery ovens are expensive pieces of equipment ranging in price from tens of thousands of dollars for small independent bakeries to millions of dollars to large scale commercial bakeries. Besides the cost of the ovens, the cost to operate these ovens in terms of energy consumption can be significant. Proportionally, the cost of the annual inspection is insignificant compared to these other costs. The required inspections are intended to prevent a catastrophic event such as an oven fire which could result in serious employee injury or death and major property loss, not to mention loss of production time.

### **Impact on Housing Costs**

The Board has made an initial determination that this proposal will not significantly affect housing costs.

### **Impact on Businesses**

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. (Also, see Costs or Savings to State Agencies.)

### **Cost Impact on Private Persons or Businesses**

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

### **Costs or Savings in Federal Funding to the State**

The proposal will not result in costs or savings in federal funding to the state.

### **Costs or Savings to Local Agencies or School Districts Required to be Reimbursed**

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

### **Other Nondiscretionary Costs or Savings Imposed on Local Agencies**

This proposal does not impose nondiscretionary costs or savings on local agencies.

### **DETERMINATION OF MANDATE**

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, the standard does not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

This proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

This proposed standard does not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standard.

### **EFFECT ON SMALL BUSINESSES**

The Board has determined that the proposed amendment will affect small business as defined in Government Code Section 11342.610 with respect to the annual inspection requirement. However, this impact is proportionally insignificant. (See Costs or Savings to State Agencies.)

### **ASSESSMENT**

The adoption of the proposed amendments to this standard will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

### **REASONABLE ALTERNATIVES CONSIDERED**

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than June 13, 2008. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on June 19, 2008, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at [oshsb@dir.ca.gov](mailto:oshsb@dir.ca.gov). The Occupational Safety and Health Standards Board may thereafter adopt the above proposals substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Marley Hart, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

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JOHN D. MACLEOD, Chairman

NOTICE OF ADOPTION OF  
REGULATIONS  
INTO TITLE 8, CALIFORNIA CODE OF REGULATIONS  
BY THE  
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

After proceedings held in accordance with and pursuant to the authority vested in Sections 142, 142.3 and 142.4, of the Labor Code to implement, interpret, or make specific, the Occupational Safety and Health Standards Board, by a majority vote, adopted additions, revisions, or deletions to the California Code of Regulations as follows:

1. Title 8, Division 1, Chapter 4, Subchapter 6, Elevator Safety Orders, Sections 3000, 3001, 3009, 3094.2, 3120.6, and 3137, and New Sections 3140, 3141, 3141.1 through 3141.13, 3142, 3142.1, 3142.2, 3143, 3144, 3145, and 3146, **Revisions to the Elevator Safety Orders**

Heard at the April 19, 2007, Public Hearing; adopted on February 21, 2008; filed with the Secretary of State on April 1, 2008; and will become effective on May 1, 2008.

2. Title 8, Division 1, Chapter 4, Subchapter 17, Mine Safety Orders, Article 17, Section 7016, **Brakes on Haulage Vehicles—Maintenance**

Heard at the December 13, 2007, Public Hearing; adopted on March 20, 2008; filed with the Secretary of State on April 11, 2008; and will become effective on May 11, 2008.

Copies of these standards are available upon request from the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721.

If you have Internet access, visit the Occupational Safety and Health Standards Board by going to: **<http://www.dir.ca.gov/oshsb>** and follow the links to the Standards Board. This information is updated monthly. The Standards Board's e-mail address is: **[oshsb@dir.ca.gov](mailto:oshsb@dir.ca.gov)**.

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Marley Hart, Executive Officer